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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

JOHN HUBER, U.S. ATTORNEY
Plaintiff
vs.
Phil Lyman
Defendant – acting pro se

Case No. 2-14-CR-00470 DN
Reply to
MOTION FOR ORDER TO SHOW CAUSE
Judge David Nuffer

U.S. Attorneys John Huber and Allison Moon have, predictably, made a public spectacle of their office and of this court. Since I did not trespass or conspire to trespass, but did the opposite and yet was falsely charged by The U.S. Attorney's office, not in response to a crime but in response to a petition, the question is, if the law can be used to deprive an individual of his right to lawful defense in this manner, then what purpose does it serve? What is the point of this harassment?

I understand governments, by their nature, are prone to mistake and inefficiency, but charging me was no mistake. It was the act of unscrupulous people using their positions to "teach me a lesson." These were the words of State BLM Director Juan Palma. And when asked what his priorities as a new U.S. Attorney General for the State of Utah, Mr. Huber listed prosecuting me to show that no one is above the law, as one of his top priorities. In a nation of laws, why is this type of personal

bias allowed to persist. I had not been convicted of a crime, nor was I guilty of a crime, yet John Huber used his pulpit to stir up public contempt for me as a means to support his spurious charges. I was not aware of the petition that had been signed and delivered to Mr. Huber comparing me to Tim DeChristopher (a person that I have long admired for his conviction, while not agreeing with his methods used to make his point) and demanding that I be sentenced to jail. He only made mention of it to other attorneys. One attorney close to the situation said that Mr. Huber commented that he received 3,200 signatures, and it was easier to charge me than to deal with the group collecting the signatures. I was not aware of the connection between Robert Shelby and Kara Pettit, or judge Shelby's close friendship with Steven Bloch, chief council for Sothern Utah Wilderness Alliance. I was not charged with a felony, thus bypassing the customary grand jury investigation that would have been required prior to being charged. I was assigned attorneys from the U.S. Defenders office against my wishes. The U.S. Defenders office was assigned to help not only me but, indirectly to help all five of the men accused in this case, as is customary, in recognition of the fact that no individual can match the resources of the United States Government. When Mr. Huber removed those services from me, after three unsuccessful attempts in the courts and only after a media blitz by his office to defame me and pressure the judge, he successfully deprived all five men of those services and caused the case to be handled by other attorneys. This was done three months into the preparation for trial and just weeks before the trial, leaving my attorney no time to adequately prepare. The natural lead in the defense fell to Nathan Brady, a former colleague from the same firm as Robert Shelby and who admitted to being beholden to Judge Shelby and the federal courts after having been reprimanded for too aggressively defending a client in a prior case. Even in Mr. Well's case he reported that he was

instructed to refrain from giving a “Cadillac defense,” and instead to give a “Volkswagen defense.” The pressure on attorneys to acquiesce to federal judges is, in itself, a travesty of justice.

I observed how Robert Shelby intimidated my inexperienced attorney. How he played to Mr. Bloch and attorneys from The Wilderness Society and SUWA who were seated in the courtroom directly behind the prosecutors and who conferred with them at every break. I had no reason to suspect or to know that Mr. Brady, Judge Shelby, the prosecutors were all aware of alliances to which I was oblivious. I had no reason to know of the complete corruption of the U.S. Attorneys office and of this Court. I naively placed my full confidence in the court despite warnings from others who were more familiar with the inside deal making that defines what this court has become.

I will respond to Huber’s points in order. The following numbered paragraphs correspond to Mr. Huber’s numbered paragraphs in his motion:

1. I was found guilty after Judge Shelby suppressed recorded testimony of Juan Palma giving not only his full support of the May 10, 2014 event, but praising our efforts and pledging to complete the process that had begun in September 2007 and which was promised to take six months. Judge Shelby recused after inadvertently disclosing his long-term association with Kara Pettit and Steven Bloch and their deep and meaningful friendship. Mr. Bloch is the lead attorney for SUWA, and his wife is Kara Pettit who Governor Herbert appointed to the Utah bench the same month that I was charged. (You really can’t make this stuff up).
2. Mr. Huber leaves out the fact that Judge Shelby, and three subsequent judges, recused from the restitution and sentencing portion of my case. He also leaves out the fact that restitution was ordered by Judge David Nuffer who was new to the case and, in Mr. Nuffer’s own testimony did not read the case until just prior to the sentencing portion of the trial. Judge

Nuffer had feloniously ruled that our case was not worthy of retrial, he had feloniously awarded damages based on a fabricated report from the BLM and without looking at the case to see that those claims had been dropped by the prosecution. His decision was based solely on his own personal bias. It was only at sentencing the Judge Nuffer said had read the case. Mr. Huber's office was pushing for jail time of two years. If only Mr. Nuffer had had the integrity to seek the truth earlier, he would have seen clearly that our being charged was a farce, and that the court proceeding was little more than a media show, with all the players being well instructed on their roles, the defense attorneys, especially Nathan Brady, included.

3. Selectively trying Mr. Wells is confirmation that this entire trial was a show. With more than 500 people engaged in a legal, peaceful, advertised protest, and then selecting for prosecution five men with a history of criticizing activists from the environmentalist community is blatant abuse of the law, on its face. Making sure the Nathan Brady was assigned to Mr. Wells as his public defender was nothing but conspiracy on the part of the courts.
4. Why, in his point #4, does Mr. Huber want to provide context? He certainly provides no context about the road in question; the fact that the BLM has since acknowledged that the road has indeed been in use since at least 1879; that it has now been added to the State's list of RS2477 claims; that it is County Road d5314; but he certainly and falsely asserts that I was ordered to pay \$500 per month at some arbitrary point.
5. I have consistently paid my ordered restitution, but it is under protest and my payment is nothing more than payment of extortion by unscrupulous players using the U.S. justice system as a front for their personal passions.

6. Why would the U.S. Attorney ask me to pay more than what has been ordered by the court? And a key contextual element that Huber, again leaves out, is that his request was made public in the Salt Lake Tribune before any formal request was ever made to me. This is defamation at its core. It is not the desire of Mr. Huber to see if my financial circumstances of have changed, it is his desire to castigate me. It is repulsive and reprehensible, but entirely customary with his office.
7. I have been self-employed for my entire career. My income is highly sporadic. My income is consistently fluctuating from year to year. This does not constitute a material change in my circumstances, but an expected condition.
8. I did not argue that my situation worsened. It is true that State Representatives receive substantially less compensation than Commissioners, but having spent more than \$300,000 in legal fees during this shakedown, all related to my public offices, should be evidence enough that the meager compensation received from either office not a factor in taking on the responsibilities of elected office. It is a duty born of a spirit of public service. Something that the highest paid U.S. Attorney in the state has not concept of. He extorts a response, then uses that response to further his malignant media assassination. I won't assign motives, but I do have my theories as to why he takes pleasure in lying about the facts and circumstances of his sham of a conviction and all that has followed it.
9. Again, I am capable of determining a material change. I am also capable of reading the 4th amendment to the Constitution. Mr. Huber overlooked nothing. He is simply doing what he has done from the outset – dogmatically attack me. If the court would like to have a discussion about my financial situation, there is little I can do to stop them. But having the U.S. Attorney choreograph a media assault each time, in advance of his disingenuous request, is a low blow. I can do little about it, and the Judge, David Nuffer, seems more

inclined to condone his action and condemn my opposition to it. So be it. Arguing this point is beneath me and I refuse to play this silly game with such hateful imposters.

10. Again, the entire motive of Mr. Huber and this court is to ENSURE that I experience a “negative material change in economic circumstances.” I beg the court to cease patronizing me on this point. I have to interrupt my business to deal with these constant jabs from the court. Ms. Moon is paid while she wastes taxpayer resources pursuing her personal ambition of protecting the planet from climate change, racial injustice, chauvinism, President Trump, conservatives, and the like. It is not a new phenomenon that when all you have is a hammer, everything looks like a nail. It is fitting that Coach Ron McBride told Mr. Huber to “be the hammer, not the nail.” That advice stuck.

11. Of course, the media outlets “thoroughly covered and reported on the Court’s order that Mr. Lyman produce his tax returns.” It is interesting that the Standing U.S. Attorney for Utah would cite this. It is his modus operandi. It is a sick perversion of the law, not an evidentiary finding.

12. The 4th amendment states: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation...” Does the court want to know my financial situation? Has Mr. Huber ever done anything but attack? If my income declines, he cries that my economic situation has changed, and I failed to report it. If my income increases, he cries that my economic situation has changed, and I should be ordered to pay more. I admit that I have “attracted the gaze of the beast,” but my actions have never been criminal, nor have they caused damage. They have only caused embarrassment to the powers that be and irritated the environmentalists that manipulate courts and politicians.

13. I was notified by Fox 13 that the U.S. Attorney's office plan to ask Judge Nuffer to hold me in contempt. It was not until 4 days later that I actually received a letter in the mail. The letter was not certified. Included with the letter was a copy of an email from Allison J.P. Moon. I searched my email and did find a nondescript email in my junk folder. It was unread and remains unread.

14. My dealings are with this Court. As corrupt as I believe this Court to be, I refuse to deal with U.S. Attorneys who have a clear contempt for me. Ethics, as farcical as it is to bring them up in this case, would demand that an environmental idealist like Ms. Moon refrain from engaging in a case such as mine. On the contrary, she has unethically determined to bring the full force of the United States down on me. Why? Is it because she hates trespassers? Is it because she hates people who don't comply with restitution orders? Is it because she loves the rule of Law? To attribute any of the above motives in my case would be laughable. I did not trespass. I have been 100% compliant with my restitution order. And I believe that, to paraphrase Attorney Sidney Powell, "a cornerstone of our society is that a person can that which is not illegal without fear of prosecution." It is the rule of laws that is supposed to ensure this cornerstone, not subvert it. If only that were the case. It is not; and I ask the court to spare themselves and society the embarrassment of pretending otherwise.

CONCLUSION

Being an election year, it is not uncommon for Federal Agencies, U.S. Attorneys, and Courts to sanctimoniously wrap themselves in the American flag while they abuse their office for purposes of political assassination and pursuit of their personal ideologies.

John Adams said it best that, left to their own restraint, federal courts and agencies “would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favor.” The rule of Law has been alloyed with ideology, which has placed the full weight of the government in the hands of unscrupulous individuals who, without risk, exploit their positions and masquerade as the solution to the very problems they themselves are creating. Threatening the liberty and property of others should have a certain hurdle that a U.S. Attorney must clear. In this case, there is no impediment to Mr. Huber or his office, or to this court’s proclivity to do anything they choose, and to do it with the full support of left leaning media outlets, i.e. “fake news.” The jury is in on whether the Court is influenced by such dishonesty. Not only are they influenced but they are purveyors of the same.

You may choose to see (and I am certain that you will represent) my arguments as merely a rant. That is to be expected in this cancel culture. But I am not in contempt of our great country. I love the United States. I love the Constitution. And I, like you and every officer of the Court, has sworn an oath to uphold it. I am not in contempt of the Law. I recognize it as the underpinnings of a just and enduring republic. Facts should matter in determining if a person is a criminal. I realize that is too much to ask of an establishment as steeped in lies as is the U.S. Attorney’s office, but my observations are my observations.

I look forward to our Zoom meeting on the 18th.

Date – 09/10/2020



Phil Lyman

I certify that this reply to the U.S. Attorney's MOTION FOR ORDER TO SHOW CAUSE was sent via US Certified Mail this 10th day of September 2020 to:

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Also a pdf copy sent via email to:

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09/10/2020